

Hon. Eric Jeffery, on behalf of the
Committee on Limited Jurisdiction Courts
C/o Administrative Office of the Courts
1501 W. Washington St., Ste. 410
Phoenix, AZ 85007

IN THE SUPREME COURT

STATE OF ARIZONA

In the Matter of:)	Supreme Court No. R-13-0014
)	
PETITION TO AMEND RULE 17.4)	Comment from the LJC
OF THE ARIZONA RULES OF)	
CRIMINAL PROCEDURE)	

This comment is submitted on behalf of the Committee on Limited Jurisdiction Courts (the “LJC”), which authorized the undersigned committee member at its April 24, 2013 meeting to file this comment.

The LJC opposes R-13-0014, both in its original form and as proposed in the amended petition.

(1) The problem identified in R-13-0014 is not an on-going issue in limited jurisdiction courts, and the requirement of filing unaccepted plea offers would be burdensome. Many defendants in limited jurisdiction courts are self-represented; self-represented defendants will not be making ineffective assistance of counsel claims. As a general practice, and regardless of whether a defendant has counsel,

prosecutors in limited jurisdiction courts may not always reduce unaccepted plea offers to writing. Requiring prosecutors in every case to reduce unaccepted plea offers to writing would burden prosecutors. Additionally, the volume of unaccepted offers filed under this proposed rule would be burdensome on limited jurisdiction court clerks.

(2) Even if the problem identified in R-13-0014 existed in limited jurisdiction courts, the LJC has concerns whether the proposed rule would address it. If the defendant does not agree that the offer filed by the prosecutor was in fact the offer the defendant received, it is difficult to see how this new rule would reduce "late, frivolous, or fabricated claims after a later, less advantageous plea offer has been accepted or after a trial leading to a conviction with resulting harsh consequences." Nor would this process reduce hearings on those issues. To the contrary, it may encourage hearings just to allow the defense an opportunity to unveil the filed, unaccepted plea. It may become a matter of course in each case to later determine if the document reflects the offer the prosecutor gave to defendant and to question if the prosecutor accurately filed the offer in writing. The court will be right back in the position it currently is, with a defendant arguing that he or she did not receive any offer, or did not receive that specific offer.

(3) The amended rule proposes a different procedure for limited jurisdiction courts (section c) than for superior courts (section b). In superior courts, the rule

contemplates confidential filings; in limited jurisdiction courts, they would not be. In superior court there is a defined time limit for filing the unaccepted offers; in limited jurisdiction courts there is no specified time limit. Moreover, there are no standards in the amended rule to guide a limited jurisdiction court or a judge on whether to impose the filing requirement of section (c). One court may require filings, while neighboring courts may not. There would be no statewide uniformity for the process. Because section (c) would permit judges to make filing determinations on a case-by-case basis, there may even be variations in procedures used for different cases on the same docket.

(4) Recommendation. The LJC recommends that the Court not adopt the proposed rule amendment. If the Court nevertheless adopts an amendment to Rule 17.4, the LJC requests that the amended rule specifically not apply to limited jurisdiction courts.

RESPECTFULLY SUBMITTED this 10th day of May, 2013

By /s/ _____
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